

# VICTOR TSAI

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March 19, 2022

**VIA ECF**

United States District Judge Sidney H. Stein  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

RE: Housing Rights Initiative v. Compass, Inc. et al.  
SDNY Case No. 21-cv-2221  
Holding Non-Appearing Defendants Would be Improper

Dear Judge Stein,

I represent the defendant E Realty International Corp. (“E Realty”) in the above-referenced lawsuit commenced by Housing Rights Initiative (“Plaintiff”). As a defendant in this action, E Realty prays for justice in this action to all defendants including non-appearing defendants who may be unable or uninformed about this matter.

It would be an injustice for Plaintiff to obtain a certificate of default against several non-appearing defendants who are all similarly situated as:

- (1) Plaintiff are seeking the Clerk’s Certificate of Default against several non-appearing defendants whom Plaintiff alleged to have been served with the original Complaint back on April 19, 2021 via the New York Secretary of State;
- (2) But Plaintiff subsequently amended its Complaint (“Amended Complaint”) [ECF Doc. 271] on November 22, 2021;
- (3) And none of the alleged defaulting non-appearing defendants were served with the Amended Complaint pursuant to Rule 4 in accordance with FRCP 5(a)(1)(B);

- (4) But rather, Plaintiff allegedly mailed the Amended Complaint relying on FRCP 5(b)(2)(C) which is inapplicable because the Amended Complaint is “a pleading filed after the original complaint” and therefore service is governed by FRCP 5(a)(1)(B);
- (5) And, that 120 days have passed since the Amended Complaint were filed and there has been no motion to extend the time to serve the Amended Complaint, this action should be dismissed as against all non-appearing defendants.

Wherefore, it is respectfully submitted that this Court dismiss all non-appearing defendants from this action who were not served in accordance with FRCP 4 with the Amended Complaint.

Thank you for your consideration

Respectfully,

/s/

Victor Tsai

Cc: All Counsel of Record via ECF